

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**MADLINE IZETTA MCDONALD
A.K.A. MADLINE IZETTA TUGWELL
218 Shadowrun Court
Redding, CA 96003**

Registered Nurse License No. 404274

Respondent

Case No. 2012-221

OAH No. 2012061023

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **December 24, 2012.**

IT IS SO ORDERED **December 24, 2012.**

I hereby certify the
foregoing to be a true copy
of the documents on file in our office.

BOARD OF REGISTERED NURSING

Louise R. Bailey M.Ed., RN
Louise R. Bailey, M. ED., RN
Executive Officer



Raymond Mallel

Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-221

12 **MADELINE IZETTA MCDONALD**
13 **aka MADELINE IZETTA TUGWELL**
14 **218 Shadowrun Court**
Redding, CA 96003

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Registered Nurse License No. 404274**

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant), is the Interim Executive Officer of the
21 Board of Registered Nursing (Board), Department of Consumer Affairs. She brought this action
22 solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney
23 General of the State of California, by Leslie E. Brast, Deputy Attorney General.

24 2. Madeline Izetta McDonald, aka Madeline Izetta Tugwell (Respondent) is representing
25 herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. On or about August 31, 1986, the Board issued Registered Nurse License No. 404274
27 to Respondent. The license was in full force and effect at all times relevant to the charges
28 brought in Accusation No. 2012-221 and will expire on July 31, 2012, unless renewed.

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1 communicate directly with the Board regarding this stipulation and surrender, without notice to or
2 participation by Respondent. By signing the stipulation, Respondent understands and agrees that
3 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board
4 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
5 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
6 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
7 be disqualified from further action by having considered this matter.

8 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
9 License and Order, including facsimile signatures thereto, shall have the same force and effect as
10 the originals.

11 12. This Stipulated Surrender of License and Order is intended by the parties to be an
12 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
13 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
14 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
15 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
16 executed by an authorized representative of each of the parties.

17 13. In consideration of the foregoing admissions and stipulations, the parties agree that
18 the Board may, without further notice or formal proceeding, issue and enter the following Order:

19 **ORDER**

20 IT IS HEREBY ORDERED that Registered Nurse License No. 404274 issued to
21 Respondent Madeline Izetta McDonald, aka Madeline Izetta Tugwell, is surrendered and accepted
22 by the Board of Registered Nursing.

23 1. The surrender of Respondent's Registered Nurse License and the acceptance of the
24 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
25 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
26 license history with the Board of Registered Nursing.

27 2. Respondent shall lose all rights and privileges as a registered nurse in California as of
28 the effective date of the Board's Decision and Order.

1 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
2 issued, her wall certificate on or before the effective date of the Decision and Order.

3 4. If Respondent ever files an application for licensure or a petition for reinstatement in
4 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
5 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
6 effect at the time the petition is filed, and all of the charges and allegations contained in
7 Accusation No. 2012-221 shall be deemed to be true, correct and admitted by Respondent when
8 the Board determines whether to grant or deny the petition.

9 5. If Respondent ever applies or reapplies for a new license or certification, or petitions
10 for reinstatement of a license, by any other healthcare licensing agency in the State of California,
11 all of the charges and allegations contained in Accusation No. 2012-221 shall be deemed to be
12 true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
13 proceeding seeking to deny or restrict licensure.

14 6. If and when Respondent's license is reinstated, she shall pay to the Board costs
15 associated with its investigation and enforcement pursuant to Business and Professions Code
16 section 125.3 in the amount of \$2,122.50. Respondent shall be permitted to pay these costs in a
17 payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the
18 Board from reducing the amount of cost recovery upon reinstatement of the license.

19 7. Respondent shall not apply for licensure or petition for reinstatement for two (2)
20 years from the effective date of the Board of Registered Nursing's Decision and Order.

21 ACCEPTANCE

22 I have carefully read the Stipulated Surrender of License and Order. I understand the
23 stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
24 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
25 by the Decision and Order of the Board of Registered Nursing.

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27 DATED: July 29th, 2012

Madeline Izetta McDonald
MADELINE IZETTA MCDONALD
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 9/5/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General



LESLIE E. BRAST
Deputy Attorney General
Attorneys for Complainant

SF2011200137
Stipulation.rtf

Exhibit A

Accusation No. 2012-221

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
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3 LESLIE E. BRAST
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BOARD OF REGISTERED NURSING
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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-221

12 **MADELINE IZETTA MCDONALD**
13 **aka MADELINE IZETTA TUGWELL**
14 **P.O. Box 2758**
Sausalito, CA 94966

A C C U S A T I O N

15 **Registered Nurse License No. RN 404274**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing (Board),
22 Department of Consumer Affairs.

23 2. On or about August 31, 1986, the Board issued Registered Nurse License Number
24 RN 404274 to Madeline Izetta McDonald, aka Madeline Izetta Tugwell (Respondent); it was in
25 full force and effect at all times relevant to the charges brought herein and will expire on July 31,
26 2012, unless renewed.

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28 ///

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY / REGULATORY PROVISIONS

6. Code section 490 provides, in pertinent part, that a Board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Code section 2761, subdivision (f), provides that the Board may take disciplinary action against a licensed nurse for "[c]onviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

8. Code section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"...

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her

1 ability to conduct with safety to the public the practice authorized by his or her license.

2 “(c) Be convicted of a criminal offense involving the prescription, consumption, or
3 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
4 or the possession of, or falsification of a record pertaining to, the substances described in
5 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
6 thereof.”

7 COST RECOVERY

8 9. Code section 125.3 provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

13 10. Code section 4021 states:

14 “ ‘Controlled substance’ means any substance listed in Chapter 2 (commencing with
15 Section 11053) of Division 10 of the Health and Safety Code.”

16 11. Code section 4022 provides:

17 “ ‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in
18 humans or animals, and includes the following:

19 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
20 prescription,’ ‘Rx only,’ or words of similar import.

21 “(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale
22 by or on the order of a _____,’ ‘Rx only,’ or words of similar import, the blank to be filled
23 in with the designation of the practitioner licensed to use or order use of the device.

24 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
25 prescription or furnished pursuant to Section 4006.”

26 12. Marijuana is a Schedule I controlled substance as designated by Health and Safety
27 Code section 11054(d)(13), and a dangerous drug pursuant to Code section 4022.

28 ///

13. Hydrocodone is a Schedule III controlled substance as designated by Health and Safety Code section 11056(e), and a dangerous drug pursuant to Code section 4022.

14. Oxycodone is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(N), and a dangerous drug pursuant to Code section 4022.

15. Amitriptyline is a tricyclic antidepressant and a dangerous drug, as designated by Business and Professions Code section 4022.

16. Nortriptyline is a tricyclic antidepressant and dangerous drug as designated by Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

17. Respondent is subject to disciplinary action under Code sections 490 and 2761, subsection (f), for unprofessional conduct in that she was convicted of a crime substantially related to the qualifications, functions and duties of a registered nurse, as follows:

18. On or about March 22, 2010, in Shasta County Superior Court, Case Number 10-00442, Respondent was convicted of having violated Vehicle Code section 23152(a) (driving under the influence of an alcoholic beverage and/or drug), after she drove her car into a power pole on May 15, 2009, while under the influence of oxycodone, hydrocodone, amitriptyline, nortriptyline, and marijuana.

19. Respondent was placed on conditional, revocable community release for 36 months, subject to compliance with all the terms of her sentence, including: 48 hours in jail; completion of an alcohol treatment program; five days of community service; payment of restitution, fees, and a \$1,836.00 fine; and submission to drug or alcohol testing and warrantless search for drugs or drug paraphernalia by any peace officer.

SECOND CAUSE FOR DISCIPLINE

(Dangerous or Injurious Use of a Controlled Substance/Dangerous Drug)

20. Respondent is subject to disciplinary action under Code section 2762, subdivision (b), for unprofessional conduct in that she used controlled substances and/or dangerous drugs to an extent or in a manner dangerous or injurious to herself, any other person or the public, or to the

1 extent that such use impaired her ability to safely practice nursing. The circumstances are
2 described in paragraph 18, above.

3 THIRD CAUSE FOR DISCIPLINE

4 (Conviction of a Crime Involving Use of a Controlled Substance/Dangerous Drug)

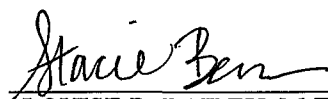
5 21. Respondent is subject to disciplinary action under Code section 2762, subdivision (c),
6 for unprofessional conduct in that she was convicted of a crime involving the consumption or
7 self-administration of controlled substances and/or dangerous drugs. The circumstances are
8 described in paragraphs 18-19, above.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number RN 404274, issued to
13 Madeline Izetta McDonald, aka Madeline Izetta Tugwell (Respondent);
- 14 2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of
15 the investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.
- 18

19 DATED: October 10, 2011

20 
21 *for* LOUISE R. BAILEY, M.ED., RN
22 Executive Officer
23 Board of Registered Nursing
24 Department of Consumer Affairs
25 State of California
26 Complainant

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